

1-1 By: Frank, et al. (Senate Sponsor - Kolckhorst) H.B. No. 3720  
 1-2 (In the Senate - Received from the House May 17, 2021;  
 1-3 May 17, 2021, read first time and referred to Committee on Health &  
 1-4 Human Services; May 21, 2021, reported favorably by the following  
 1-5 vote: Yeas 9, Nays 0; May 21, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to interest lists and eligibility criteria for certain  
 1-20 Medicaid waiver programs.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subchapter B, Chapter 531, Government Code, is  
 1-23 amended by adding Sections 531.06011 and 531.06035 to read as  
 1-24 follows:

1-25 Sec. 531.06011. CERTAIN MEDICAID WAIVER PROGRAMS: INTEREST  
 1-26 LIST MANAGEMENT. (a) This section applies only with respect to the  
 1-27 following waiver programs:

1-28 (1) the community living assistance and support  
 1-29 services (CLASS) waiver program;

1-30 (2) the home and community-based services (HCS) waiver  
 1-31 program;

1-32 (3) the deaf-blind with multiple disabilities (DBMD)  
 1-33 waiver program;

1-34 (4) the Texas home living (TxHmL) waiver program;

1-35 (5) the medically dependent children (MDCP) waiver  
 1-36 program; and

1-37 (6) the STAR+PLUS home and community-based services  
 1-38 (HCBS) program.

1-39 (b) The commission, in consultation with the Intellectual  
 1-40 and Developmental Disability System Redesign Advisory Committee  
 1-41 established under Section 534.053, the state Medicaid managed care  
 1-42 advisory committee, and interested stakeholders, shall develop a  
 1-43 questionnaire to be completed by or on behalf of an individual who  
 1-44 requests to be placed on or is currently on an interest list for a  
 1-45 waiver program.

1-46 (c) The questionnaire developed under Subsection (b) must,  
 1-47 at a minimum, request the following information about an individual  
 1-48 seeking or receiving services under a waiver program:

1-49 (1) contact information for the individual or the  
 1-50 individual's parent or other legally authorized representative;

1-51 (2) the individual's general demographic information;

1-52 (3) the individual's living arrangement;

1-53 (4) the types of assistance the individual requires;

1-54 (5) the individual's current caregiver supports and  
 1-55 circumstances that may cause the individual to lose those supports;  
 1-56 and

1-57 (6) when the delivery of services under a waiver  
 1-58 program should begin to ensure the individual's health and welfare  
 1-59 and that the individual receives services and supports in the least  
 1-60 restrictive setting possible.

1-61 (d) Subject to the availability of funds, the commission

2-1 shall require all individuals on an interest list to annually  
 2-2 update the questionnaire developed under Subsection (b).

2-3 (e) If the commission determines that it is feasible, the  
 2-4 commission shall develop an online portal to allow an individual or  
 2-5 an individual's parent or other legally authorized representative  
 2-6 to:

2-7 (1) request placement on a waiver program interest  
 2-8 list; and

2-9 (2) complete and update the questionnaire developed  
 2-10 under Subsection (b).

2-11 (f) If an individual is on a waiver program's interest list  
 2-12 and the individual or the individual's parent or other legally  
 2-13 authorized representative does not respond to a written or verbal  
 2-14 request made by the commission to update information concerning the  
 2-15 individual or otherwise fails to maintain contact with the  
 2-16 commission, the commission:

2-17 (1) shall designate the individual's status on the  
 2-18 interest list as inactive until the individual or the individual's  
 2-19 parent or other legally authorized representative notifies the  
 2-20 commission that the individual is still interested in receiving  
 2-21 services under the waiver program; and

2-22 (2) at the time the individual or the individual's  
 2-23 parent or other legally authorized representative provides notice  
 2-24 to the commission under Subdivision (1), shall designate the  
 2-25 individual's status on the interest list as active and restore the  
 2-26 individual to the position on the list that corresponds with the  
 2-27 date the individual was initially placed on the list.

2-28 (g) The commission's designation of an individual's status  
 2-29 on an interest list as inactive under Subsection (f) may not result  
 2-30 in the removal of the individual from that list or any other waiver  
 2-31 program interest list.

2-32 (h) Not later than September 1 of each year, the commission  
 2-33 shall provide to the Intellectual and Developmental Disability  
 2-34 System Redesign Advisory Committee established under Section  
 2-35 534.053, or, if that advisory committee is abolished, an  
 2-36 appropriate stakeholder advisory committee, as determined by the  
 2-37 executive commissioner, the number of individuals, including  
 2-38 individuals whose status is designated as inactive by the  
 2-39 commission, who are on an interest list to receive services under a  
 2-40 waiver program.

2-41 Sec. 531.06035. MEDICALLY DEPENDENT CHILDREN WAIVER  
 2-42 PROGRAM (MDCP) INTEREST LIST; MEDICAL NECESSITY ASSESSMENT  
 2-43 REQUIRED. (a) This section applies only to a child who receives  
 2-44 Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et  
 2-45 seq.).

2-46 (b) If a child's parent or other legally authorized  
 2-47 representative expresses interest in placing the child on the  
 2-48 interest list for the medically dependent children (MDCP) waiver  
 2-49 program, the commission shall conduct a medical necessity  
 2-50 assessment of the child to ensure the child is eligible for services  
 2-51 before placing the child on the program's interest list.

2-52 SECTION 2. Subchapter B, Chapter 32, Human Resources Code,  
 2-53 is amended by adding Section 32.0521 to read as follows:

2-54 Sec. 32.0521. ELIGIBILITY FOR TEXAS HOME LIVING (TxHmL)  
 2-55 WAIVER PROGRAM. (a) In this section:

2-56 (1) "Related condition" means, consistent with 42  
 2-57 C.F.R. Section 435.1010, a severe and chronic disability that:

2-58 (A) is attributed to:

2-59 (i) cerebral palsy or epilepsy; or

2-60 (ii) any other condition, other than mental

2-61 illness, found to be closely related to intellectual disability

2-62 because the condition results in impairment of general intellectual

2-63 functioning or adaptive behavior similar to that of individuals

2-64 with intellectual disability, and requires treatment or services

2-65 similar to those required for individuals with intellectual

2-66 disability;

2-67 (B) is manifested before the individual reaches

2-68 22 years of age;

2-69 (C) is likely to continue indefinitely; and

3-1 (D) results in substantial functional limitation  
 3-2 in at least three of the following areas of major life activity:  
 3-3 (i) self-care;  
 3-4 (ii) understanding and use of language;  
 3-5 (iii) learning;  
 3-6 (iv) mobility;  
 3-7 (v) self-direction; and  
 3-8 (vi) capacity for independent living.

3-9 (2) "Section 1915(c) waiver program" has the meaning  
 3-10 assigned by Section 531.001, Government Code.

3-11 (b) To the extent allowed by federal law, an individual is  
 3-12 financially eligible to participate in the Texas home living  
 3-13 (TxHmL) waiver program if the individual's income is not more than  
 3-14 the special income limit established by the commission for other  
 3-15 Section 1915(c) waiver programs, including the home and  
 3-16 community-based services (HCS) waiver program.

3-17 (c) To the extent permitted by federal law, the commission  
 3-18 shall expand medical eligibility criteria under the Texas home  
 3-19 living (TxHmL) waiver program to ensure that an individual is  
 3-20 medically eligible to participate in the waiver program if the  
 3-21 individual:

3-22 (1) has a primary diagnosis by a licensed physician of  
 3-23 a related condition that is included on the list of diagnostic codes  
 3-24 for persons with related conditions that are approved by the  
 3-25 commission; and

3-26 (2) has moderate to extreme deficits in adaptive  
 3-27 behavior, as determined by commission rule, obtained by  
 3-28 administering a standardized assessment of adaptive behavior.

3-29 SECTION 3. As soon as practicable after the effective date  
 3-30 of this Act, the Health and Human Services Commission shall:

3-31 (1) develop the questionnaire required by Section  
 3-32 531.06011(b), Government Code, as added by this Act, and, subject  
 3-33 to the availability of funds, implement Subsection (d) of that  
 3-34 section not later than September 1, 2024;

3-35 (2) determine the feasibility of developing an online  
 3-36 portal under Section 531.06011(e), Government Code, as added by  
 3-37 this Act, and if feasible, develop and implement the online portal;  
 3-38 and

3-39 (3) as appropriate, conduct a medical necessity  
 3-40 assessment of each child who is on the interest list for the  
 3-41 medically dependent children (MDCP) waiver program on the effective  
 3-42 date of this Act to ensure the child's eligibility for program  
 3-43 services.

3-44 SECTION 4. If before implementing any provision of this Act  
 3-45 a state agency determines that a waiver or authorization from a  
 3-46 federal agency is necessary for implementation of that provision,  
 3-47 the agency affected by the provision shall request the waiver or  
 3-48 authorization and may delay implementing that provision until the  
 3-49 waiver or authorization is granted.

3-50 SECTION 5. This Act takes effect September 1, 2021.

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